The opinion in support of the decision being
entered today was <u>not</u> written for publication
and is <u>not</u> binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

<u>Ex parte</u> HUGH WILLIAMS ADAMS, JR.,
SUBRATE KUMA DAS,
PETER GUSTAV FAIRWEATHER,
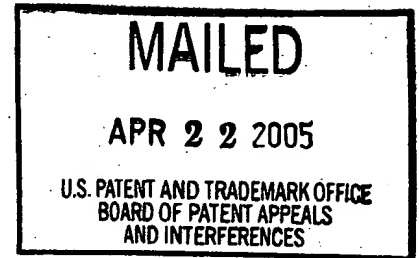and DON HOLMES NIX

Appeal No. 2004-1686
Application 09/421,139[1]

ON BRIEF

Before BARRETT, DIXON, and LEVY, <u>Administrative Patent Judges</u>.

BARRETT, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

This is a decision on appeal under 35 U.S.C. § 134(a) from

the final rejection of claims 1-9, 11-14, 16-19, 21-23, 31-36,

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[1] Application for patent filed October 19, 1999, entitled
"System and Method for Interactive Reading and Language
Instruction," which is a continuation of Application 08/877,912,
filed June 18, 1997, now U.S. Patent 6,017,219, issued
January 25, 2000.

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38, 39, and 44-51. Claims 10, 15, 20, 24-30, 37, and 40-43 have been canceled.

We affirm-in-part.

BACKGROUND

The invention relates to a computer-based system and method for providing a dynamically-generated interactive reading lesson between a computer and a student user.

Claim 1 is reproduced below.

1. A computer-based learning system for providing an interactive lesson between the computer and a student user comprising:

user input means including at least audio input means for delivering audible user responses to said system and speech recognition means associated with said audio input means;

user interface means including at least audio output means;

program controller means for dynamically generating said interactive lesson; and

a plurality of databases for access by said program controller means in interpreting user responses input to said user input means including at least one lesson database and at least one lesson-based speech interpretation database.

THE REFERENCE

The examiner relies on the following reference:

Mostow et al. (Mostow)   5,920,838   July 6, 1999
                                    (filed June 2, 1997)

THE REJECTIONS

Claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 stand rejected under 35 U.S.C. § 112, first paragraph, based on lack of written description for the term "dynamic generation" of lesson content in independent claims 1, 7, 21, and 31.

Claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because the interpretation and meaning of the word "dynamic" in the context of independent claims 1, 7, 21, and 31 is unknown.

Claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mostow.

We refer to the final rejection (Paper No. 14) (pages referred to as "FR__") and the examiner's answer (Paper No. 18) (pages referred to as "EA__") for a statement of the examiner's rejection, and to the brief (Paper No. 17) (pages referred to as "Br__") for a statement of appellants' arguments thereagainst.

OPINION

Written description

The written description rejection under 35 U.S.C. § 112, first paragraph, is used to reject when a claim is amended or a new claim added to recite elements thought to be without support in the original disclosure. See In re Rasmussen, 650 F.2d 1212,

1214-15, 211 USPQ 323, 326 (CCPA 1981). In order to satisfy the written description requirement, the disclosure as originally filed does not have to provide _in haec verba_ support for the claimed subject matter at issue. See _Fujikawa v. Wattanasin_, 93 F.3d 1559, 1570, 39 USPQ2d 1895, 1904 (Fed. Cir. 1996). Nonetheless, the disclosure "must ... convey with reasonable clarity to those skilled in the art that ... [the inventor] was in possession of the invention." _Vas-Cath Inc. v. Mahurkar_, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991).

Claims 1, 7, and 21 recite "means for dynamically generating said interactive lesson." Claim 7 also refers to an "interactively generated lesson." Claim 31 more completely defines "dynamically generating said interactive language lesson" including the step of "generating an output based upon said interpreting of said student responses."

Appellants contend that the "dynamically generating" language is adequately supported by the descriptions in the specification of automatically adjusting or altering the lesson based on the user/student input (Br11-12).

The examiner states that the original disclosure does not mention the word "dynamic" or "dynamically" (EA4; EA9-10). The examiner states that "dynamically" does not fall within the special cases of MPEP §§ 2163.07 and 2163.07(a) & (b) because it is not a mere re-phrasing, it is not the correction of a spelling

error, and is not incorporation by reference (EA10). The

examiner further finds that the "dynamic" functionality is not

inherent (EA10). It is stated (EA10):

> While appellant does provide various quotations from the
> specification at pages 11-12 of the brief, none of the
> quotations cited actually pertain [to] the actual step of
> generating a lesson, which is the feature claimed as being
> "dynamic." If anything, these quotations only confirm the
> lack of original disclosure for this term.

The disclosure as originally filed does not have to provide

in haec verba (meaning "in these same words, verbatim") support

for the claimed subject matter at issue. See Fujikawa v.

Wattanasin, 93 F.3d at 1570, 39 USPQ2d at 1904. Thus, it is not

determinative that the terms "dynamically generating" and

"dynamic" are not in the specification. The question is whether

the limitation "dynamically generating said interactive lesson"

fairly describes (i.e., is supported by) the portions of the

specification pointed out by appellants. In the computer art of

the invention, "dynamic" is defined as follows:

> Refers to operations performed "on the fly," which are based
> on decisions made while the program is running rather than
> beforehand. The expression, "buffers are dynamically
> created," means that space is created when actually needed,
> not reserved ahead of time. The expression, "data is
> compressed onto the disk dynamically" means that the
> compression algorithms are being applied when the data is
> being written rather than before. Contrast with static.

From TechEncyclopedia, "http://www.techweb.com/encyclopedia/."

Thus, "dynamically generating said interactive lesson" is

interpreted to mean generating an interactive lesson while the

program is running. An "interactive lesson" is a lesson that responds to user activity, i.e., "dynamically generating said interactive lesson" can broadly refer to generating the interactivity and does not have to be generating the story part of the lesson. The portions of the specification pointed out by appellants support the limitation. For example, the statement that "[t]he proportion of the text 'read' by each participant and the pace at which the lesson progresses can each be automatically altered based upon the proficiency of the student" (specification, page 4, lines 20-24), describes two ways in which the interactive lesson is changed while the program is running. See also page 16, lines 12-19 (pace determined by user); page 18, lines 16-22 (executive program regularly updates reading level database with revised estimate of the student's competency and "[e]ach update that changes the estimate can potentially change the manner in which the reading or speaking of a textual segment will be shared for the present lesson or future lessons").

The examiner also states (EA10-11):

> A further consideration is the fact that the term "dynamic" could be an attempt to claim an artificial intelligence capability that appellant did not originally conceive. Stating that the lessons are "dynamically generated" implies that the processing system actually makes up original stories and original lessons on the spot, rather than simply selecting stories and lessons from an existing knowledge base. As such a capability does not reside in the originally disclosed system, Examiner further maintains that claims directed to the "dynamic generation" of lesson content is new matter.

While "dynamically generating said interactive lesson" is broad enough to cover dynamically making up original stories that form the text of the lesson, this is not the only meaning. The "interactive lesson" is a lesson that responds to user activity and "dynamically generating said interactive lesson" can refer to changing the interactivity of the lesson, such as by changing the proportion of text "read" and the pace at which the lesson progresses. Claim breadth should not be confused with indefiniteness, In re Miller, 441 F.2d 689, 693, 169 USPQ 597, 600 (CCPA 1971), or with lack of written description.

To the extent the examiner is concerned that the allowance of the claims might mean that the claim is infringed by later developers of an artificial intelligence capability that is not disclosed, this concern has been addressed, for example, in In re Hogan, 559 F.2d 595, 607, 194 USPQ 527, 538 (CCPA 1977):

> The PTO position, that claim 13 is of sufficient breadth to cover the later state of the art (amorphous polymers) shown in the "references," reflects a concern that allowance of claim 13 might lead to enforcement efforts against the later developers. Any such conjecture, if it exists, is both irrelevant and unwarranted. The business of the PTO is patentability, not infringement. Like the judicially-developed doctrine of equivalents, designed to protect the patentee with respect to later-developed variations of the claimed invention, the judicially-developed "reverse doctrine of equivalents," requiring interpretation of claims in the light of the specification, may be safely relied upon to preclude improper enforcement against later developers. [Footnotes omitted.]

For the reasons stated above, we find that there is written description support for the limitation of "dynamically generating

said interactive lesson." The rejection of claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 under 35 U.S.C. § 112, first paragraph, is reversed.

Definiteness

The examiner states that "[w]hile the word 'dynamic' is itself known, the interpretation and meaning of this word within the context of the invention is unknown, particularly since this word does not appear in the original disclosure" (FR2). The examiner argues that since appellants do not present any arguments in rebuttal, the rejection should be sustained (EA11).

While appellants do not expressly respond to the § 112, second paragraph, rejection, we find that the response to the § 112, first paragraph, rejection answers this rejection. As discussed, supra, the term "dynamic" in the computer art refers to operations performed "on the fly," which are based on decisions made while the program is running rather than beforehand. Two of the disclosed dynamic operations are changing the proportion of text "read" by each participant and the pace at which the lesson progresses. Thus, "dynamically generating said interactive lesson" is interpreted to mean generating an interactive lesson while the program is running, where the "interactive lesson" is a lesson that responds to user activity and not necessarily the story text, and is not indefinite. The

rejection of claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 under § 112, second paragraph, is reversed.

Declaration under Rule 131

Appellants filed a declaration under 37 CFR § 1.131 (Paper No. 10) to swear behind Mostow and separately filed documents in support of the declaration (Paper No. 13). The declaration states that the invention was made before the effective filing date of Mostow as evidenced by (1) copies of source code files "read.c" and "text.c"; and (2) a directory archive showing a last modified date of 11/20/95 for "read.c" and "text.c"

The examiner stated the declaration is not sufficient to overcome Mostow in that it does not comply with MPEP § 715.07 because it does not provide a clear explanation of what the exhibits describe (FR6-7). The examiner states that "[w]hile the program ['read.c'] does contain comments on individual programming lines, the overall effect of the program cannot be determined, so as to permit a comparison of this program to the claimed invention" (FR7).

We agree with the examiner that merely providing the source code is not sufficient to antedate Mostow. Appellants have not explained how the source code teaches all the limitations of the claims. While some of the comments suggest some of the claim limitations, it is not apparent how the source code teaches all of the limitations of the claimed invention as a whole. For

example, where does the program teach "dynamically generating said interactive lesson" in the independent claims, or a "database of anticipated incorrect student responses" as recited in claims 2 and 21, or "continually monitor[ing] student progress based on said student responses" in claims 11, 16, 23, and 33? The burden of such a showing is on the appellants, and we will not presume that the limitations are taught.

Anticipation

Grouping of claims

Appellants provide the following grouping of claims (Br7):

Group I: claims 1, 3, 6, 45, 46, and 50
Group II: claims 2, 4, 5, 21, 44, and 51
Group III: claims 11-14, 16-19, 23, and 33
Group IV: claims 7-9, 22, 38, and 47-49
Group V: claims 31, 32, 34-36, and 39.

The grouping of claims under 37 CFR § 1.192(c)(7) (2002) is the grouping of claims that stand or fall together for each rejection. While Group I is an appropriate grouping because only independent claim 1 is argued, in Group II appellants separately argue claims 2, 4, 44, and 51. Moreover, it is not logical for claims in Group V to stand or fall together because some of the claims depend on claims in other groups that are separately argued (i.e., claims 34-36 depend on claim 33 in Group III, and claim 39 depends on claim 38 in Group IV). This confusion about what is meant by grouping is one reason the grouping requirement

was removed from the new rules in 37 CFR § 41.37 (2004). We

separately consider each argued claim.

Arguments not made are considered to be abandoned and have

not been addressed. See 37 CFR § 1.192(c)(8)(iii) (2002) (brief

must point out errors in the rejection). Cf. In re Baxter

Travenol Labs., 952 F.2d 388, 391, 21 USPQ2d 1281, 1285 (Fed.

Cir. 1991) ("It is not the function of this court to examine the

claims in greater detail than argued by an appellant, looking for

nonobvious distinctions over the prior art."); In re Watts,

354 F.3d 1362, 1367, 69 USPQ2d 1453, 1457 (Fed. Cir. 2004) ("Just

as it is important that the PTO in general be barred from raising

new arguments on appeal to justify or support a decision of the

Board, it is important that the applicant challenging a decision

not be permitted to raise arguments on appeal that were not

presented to the Board." (Footnote omitted.))

Claims 1, 3, 6, 45, 46, and 50

Appellants argue that Mostow does not teach "dynamically

generating said interactive lesson." It is argued that Mostow

describes that the tutor will "intervene" in the lesson in one of

three ways: preemptively, based on the lesson complexity;

assistively, based upon an explicit user request; or,

correctively, in response to a detected error (Br14). However,

it is argued, these are merely responses generated in response to

an expected event and, so, "[t]he Mostow tutor does not

dynamically generate an interactive lesson based on the progress
of the lesson and/or the detected proficiency of the student; it
simply detects an event and generates the programmed response to
that detected event" (Br14).

The examiner notes that Mostow explicitly describes
performing "dynamic" functions at column 4, line 25 (EA11).

Mostow discloses that "[d]ecisions about whether, when, how,
and in what manner to intervene are made dynamically by the
tutoring function 22 based on the current reading input and, if
available, the student model 26" (col. 4, lines 24-27) and that
"[i]n tutor-mediated reading, text presentation is dynamically
controlled by the tutor 10 to meet the needs of an individual
user, especially one who needs assistance, for example, in
reading, pronouncing, or remembering" (col. 8, lines 36-38).
Thus, Mostow does teach "dynamically generating" an "interactive
lesson." The limitation "dynamically generating said interactive
lesson" does not require dynamically generating "based on the
progress of the lesson and/or the detected proficiency of the
student" (Br14), as argued by appellants. In regard to
appellants' argument that Mostow "simply detects an event and
generates the programmed response to that detected event" (Br14)
it is noted that dynamic programs also have programmed responses
to detected events, e.g., the pace at which the lesson progresses
can be automatically altered in appellants' invention based on

time it takes the reader to read a word. Mostow discloses that
the disclosed intervention architecture "uses elapsed time as a
key component in processing user actions and in generating
responses" (col. 8, lines 15-17), such as the rules for "turn-
taking" (col. 7, lines 5-45), which is considered one form of
"dynamic" behavior. Accordingly, the rejection of claim 1, and
its dependent claims 3, 6, 45, 46, and 50, is sustained.

Claim 2

Appellants argue that Mostow's database of text segments is
a database of correct syllables or word fragments and does not
anticipate a "database of anticipated incorrect student
responses" in claim 2 (Br15). It is argued that "anticipated
incorrect student responses" were detailed in the specification
as including words which are commonly interchanged and expected
mispronunciations (Br15).

The examiner states that Mostow discloses at column 5,
lines 5-12, that the tutoring function has the capability of
detecting incorrect pronunciations and derives this capability by
relying on the database of text segments (EA12).

Mostow discloses (col. 5, lines 2-8):

> [T]he speech recognizer may tag certain types of _expected_
> _mispronunciations_, such as reversals (e.g. "was" for "saw")
> _or substitutions_ (e.g. pronouncing the letter C as /K/
> instead of /S/, or vice versa). If the tutoring function 22
> detects one of these cases, it provides a response specific
> to that case, provided the knowledge base 24 contains
> resources for that case .... [Emphasis added.]

The teaching of "expected mispronunciations ... or substitutions" are forms of the claimed "anticipated incorrect student responses." The expected mispronunciations or substitutions must inherently be stored in some form of database. The rejection of claim 2 is sustained.

Claims 4 and 5

Appellants argue that Mostow's storage of sound effects is not the same as or suggestive of a "database of acoustic information for use by the speech recognition means in interpreting student responses" in claims 4 and 5 (by virtue of its dependency from claim 4) (Br16).

The examiner finds that column 5, lines 32-33, refers to a record of sound effects within the knowledge database (EA12).

We interpret the "acoustic information database" to refer to the "learner population-specific acoustic model," specification, pages 9-10, because it consists of acoustic information used in interpreting student responses. However, any acoustic information used to interpret student responses would satisfy the limitation. Mostow discloses that the knowledge base 24 is comprised of text segments and associated resources (col. 5, lines 23-24) and "[r]esources may comprise, for example, spoken pronunciations, sound effects, definitions, explanations, paraphrases, images, video clips, or other information" (col. 5, lines 31-34). The text segment database only provides sound

effects and feedback messages and is not "for use by said speech recognition means in interpreting student responses," as claimed. The rejection of claims 4 and 5 is reversed.

Claims 11-14

Appellants argue that Mostow does not "continually monitor student progress based on said student responses" as recited in claims 11 and 12-14 (by virtue of their dependency on claim 11), (Br16-17). It is argued that a quality control module for evaluating whether to accept a response is not the same as a program controller for continually monitoring student progress (Br17).

The examiner finds that the controller 22 in Mostow monitors the student's progress using a quality control module as described at column 9, lines 11-13. It is stated that this module provides an evaluation of the student's feedback and is making a judgment about whether or not the feedback is acceptable, which is considered an evaluation of the student's progress for a particular lesson (EA12).

The term "progress" means "development or growth," which implies improvement over time. The quality control module is used during the process of recording new words and sentences to determine whether a recording is acceptable (col. 8, line 62, to col. 9, line 15). We do not consider determining whether a

recording is acceptable to reasonably indicate "progress."

Accordingly, the rejection of claims 11-14 is reversed.

Claim 44

Appellants argue that the claimed "reading level information database for use by the program controller in adjusting the complexity of the interactive lesson" in claim 44 is not the same as the database 26 containing stored student responses, as stated by the examiner (Br17).

We do not find where the examiner responds to this particular argument. Appellants' specification describes that the "reading level information database" is "used to change the amount of support given to the user during his or her reading" (specification, page 8, lines 12-13). Thus, we interpret "adjusting the complexity" in claim 44 as "adjusting the amount of support given to the user." The student model 26 "provides the tutoring function 22 with historical information about the particular user using the tutor 10 ... [such as] information about words the user has trouble with, words the user has mastered, reading habits of the user (e.g. repeating words, etc.), or other information that can aid the tutoring function 22" (col. 6, lines 36-42). Mostow describes that "[d]ecisions about whether, when, how, and in what manner to intervene are made dynamically by the tutoring function 22 based on the current reading input and, if available, the student model 26". (col. 4,

lines 24-27). We find that this teaches adjusting the amount of
support given to the user, where the "historical information" in
the student model 26 is considered "reading level information."
Therefore, the rejection of claim 44 is sustained.

Claim 47

Appellants argue that Mostow does not teach a "session
database for maintaining user session information" as recited in
claim 47 (Br17). It is argued that "[t]he contents of the Mostow
speech interpretation, pronunciation, and story text databases do
not reflect the interactions of any one session and are not,
therefore, session based as claimed in Claims 47-49" (Br18).

The examiner finds that any database in Mostow reads as a
session database (EA7).

As disclosed, there is a "session database" that "enables
storage of the [interactive] session for uploading and
transmission or for local review at a later time" (specification,
page 9, lines 3-5). However, the limitation of a "session
database for maintaining user session information" in claim 47 is
broader than the "lesson storage database for storing the
interactively generated lesson" in claim 7. We interpret the
"user session information" as broad enough to cover any
information resulting from a session and not all session
information. We agree with appellants that not every database is
a "session database for maintaining user session information,"

and that the story text database, the speech interpretation database, and the pronunciation database are not session-based (Br17-18). However, the student model 26 which "provides the tutoring function 22 with historical information about the particular user using the tutor 10 ... [such as] information about words the user has trouble with, words the user has mastered, reading habits of the user (e.g. repeating words, etc.), or other information that can aid the tutoring function 22" (col. 6, lines 36-42), is considered to be a "session database for maintaining user session information" because the historical information is derived from sessions. In addition, Mostow teaches that "[t]he tutor 10, at step 34, listens for the user (author or student) to read the selected word or sequence of words, and records what the user says" (col. 9, lines 3-5) and "[r]ecordings can be captured either explicitly in an authoring mode or implicitly during normal tutor operation" (col. 9, lines 27-29), which teaches recording of the user session. The rejection of claim 47 is sustained.

Claim 48

The examiner finds that the "Back" function (col. 3, line 20), allows for replay (FR5).

Appellants argue that claim 48 is not anticipated by Mostow because the "Back" function simply backspaces in the lesson and

does not use information from a session database when skipping

back to a previous word (Br18).

We agree with appellants that using the "Back" function in

Mostow does not "replay segments of a user session based on input

from said session database," as claimed. While we interpreted a

"session database" broadly as covering any information derived

from a session in parent claim 47, the limitation "replay

segments of a user session based on input from said session

database" requires replaying parts of a user session, not just

going back in the text. This limitation is not found in Mostow.

While the recording in Mostow (at col. 9) might imply that the

recording can be replayed, this is not expressly taught.

Accordingly, the rejection of claim 48 is reversed.

Claim 49

The examiner states that "[a]ny point in the lesson which is

started by the controller may be read as the claimed starting

point" (FR5).

Appellants argue that claim 49 covers starting a new session

at a starting point other than the beginning of a text based on

information about a previous session which is stored in the

session database (Br18-19). It is argued that the examiner's

position does not anticipate establishing a starting point of a

lesson based on stored previous session information (Br19).

We disagree with the examiner's finding that any start point meets the claim limitation. Claim 49 requires a "starting point for said interactive lesson <u>based on said user session information</u>" (emphasis added), where user session information is information derived from a session, not just the lesson. This is not taught in Mostow. The rejection of claim 49 is reversed.

Claim 51

The examiner finds that "[a]ny text database within the system of Mostow et al. reads as a 'text power set' database" (FR6).

Appellants argue that the term "text power set" is explicitly defined in the specification, page 10, and refers to a well-defined database of phonemic representations of contiguous words, which is not anticipated by Mostow (Br19-20).

Where an applicant decides to be his own lexicographer, the definition must be clearly set forth in the specification. <u>See</u> <u>Beachcombers v. WildeWood Creative Prod., Inc.</u>, 31 F.3d 1154, 1158, 31 USPQ2d 1653, 1656 (Fed. Cir. 1994). This is one of those situations because "text power set" has no common meaning other than what is defined in the specification. Mostow does not disclose a "text power set database." The examiner's reliance on a text database does not account for the whole limitation of a "text <u>power set</u> database" (emphasis added). The rejection of claim 51 is reversed.

Claims 7-9

Appellants argue that "[s]imply delivering a set program of text, which amounts to a 'lecture', is not the same as or suggestive of dynamically generating an interactive lesson, let alone dynamically providing lesson storage for the particular user's reading lesson" (Br19).

The examiner responds that Mostow is an interactive system and that it discloses dynamic lesson generation (EA12-13).

For the reasons stated in connection with claim 1, we find that Mostow discloses "dynamically generating said interactive lesson." We do not find where the examiner addresses the limitation of a "lesson storage database for storing the interactively generated lesson." As disclosed, there is a "session database" that "enables storage of the [interactive] session for uploading and transmission or for local review at a later time" (specification, page 9, lines 3-5). However, the claim limitation of "storing the interactively generated lesson" only requires storing the lesson. Mostow discloses that "[t]he tutor 10, at step 34, listens for the user (author or student) to read the selected word or sequence of words, and records what the user says" (col. 9, lines 3-5) and "[r]ecordings can be captured either explicitly in an authoring mode or implicitly during normal tutor operations" (col. 9, lines 27-29). We find that

this teaches storing the interactive sessions. The rejection of claims 7-9 is sustained.

Claims 16-19

Appellants argue that Mostow does not "continually monitor student progress based on said student responses" as recited in claim 16 (Br16-17).

For the reasons stated in connection with claim 11, the rejection of claim 16 and its dependent claims 17-19 is reversed.

Claims 21-23

Appellants argue that Mostow's database of text segments is a database of correct syllables or word fragments and does not anticipate a "database of anticipated incorrect student responses" in claim 21 (Br15). It is argued that Mostow's storage of sound effects is not the same as a "database of acoustic information for use by said speech recognition means in interpreting student responses" in claim 21 (Br16).

We find that Mostow's teaching of "expected mispronunciations ... or substitutions" anticipates the claimed "anticipated incorrect student responses," as discussed in connection with claim 2. However, we find that Mostow does not teach a "database of acoustic information for use by said speech recognition means in interpreting student responses," as

discussed in connection with claim 4. The rejection of claims 21-23 is reversed.

Claims 31 and 32

Appellants argue that Mostow does not teach "dynamically generating said interactive language lesson" in claim 31 (Br15).

For the reasons stated in connection with claim 1, we find that Mostow teaches this limitation. No other limitations of claim 31 are argued and, so, have not been considered. The rejection of claim 31 and its dependent claim 32 is sustained.

Claims 33-36

Appellants argue that Mostow does not "continually monitor student progress based on said student responses" as recited in claim 33. For the reasons stated in connection with claim 11, which contains the same limitation, we reverse the rejection of claim 33 and its dependent claims 34-36.

Claims 38 and 39

Claim 38 recites "the step of storing said interactive language lesson at said at least one lesson storage database." Appellants argue that Mostow does not teach "providing lesson storage for the particular user's reading lesson" (Br19).

For the reasons stated in connection with claim 7, we find that Mostow does teach this limitation. The rejection of claims 38 and its dependent claim 39 is sustained.

CONCLUSION

The rejections of claims 1-9, 11-14, 16-19, 21-23, 31-36, 38, 39, and 44-51 under 35 U.S.C. § 112, first and second paragraphs, are reversed.

The declaration under 37 CFR § 1.131 is not sufficient to antedate the Mostow patent.

The rejection of claims 1-3, 6-9, 31, 32, 38, 39, 44-47, and 50 under 35 U.S.C. § 102(e) is _sustained_ and the rejection of claims 4, 5, 11-14, 16-19, 21-23, 33-36, 48, 49, and 51 under § 102(e) is _reversed_.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (2004).

AFFIRMED-IN-PART

LEE E. BARRETT
Administrative Patent Judge   )
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)
)
)
)   BOARD OF PATENT
JOSEPH L. DIXON   )   APPEALS
Administrative Patent Judge   )   AND
)   INTERFERENCES
)
)
)
STUART S. LEVY   )
Administrative Patent Judge   )

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ANN VACHON DOUGHERTY, ESQ
3173 CEDAR ROAD
YORKTOWN HEIGHTS, NY   10598